

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:12-CV-189-RJC-DCK**

**DIANNE B. BOYTER and
DIRK E. BERGHMANS,**

Plaintiffs,

v.

**BANK OF AMERICA CORPORATION,
BANK OF AMERICA HOME LOANS,
and JOHN and JANE DOES 1-10,**

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Verified Opposition And Motion To Vacate Order Of April 23, 2012 Granting Motion For Extension Of Time To Respond To Complaint” (Document No. 6) filed May 3, 2012. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will grant the motion.

Pro se Plaintiffs’ motion contends that Defendants had not been served with the Summons and Complaint in this action, and therefore, the “Motion For Extension Of Time To Respond To Complaint” (Document No. 4) should not have been allowed. (Document No. 6). Plaintiffs request that the Court vacate its previous Order (Document No. 5) allowing Defendants until May 11, 2012, to file an answer or otherwise respond to Plaintiff’s Complaint. *Id.*

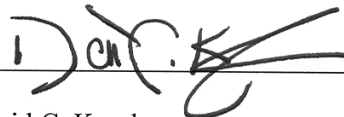
“Defendants Bank Of America Corporation And Bank Of America Home Loans Servicing, LP Response To Plaintiffs Motion To Vacate” (Document No. 8) filed May 21, 2012, contends that they “received a Lis Pendens, Complaint and Summons with a blank Proof of Service on or about

March 30, 2012,” and that they filed a motion for extension of time in an abundance of caution to protect their interests. (Document No. 8). Defendants now withdraw their previous motion for extension of time “in order to allow Plaintiffs to effectuate proper service upon BOA.” Id. In short, it appears that Defendants do not oppose Plaintiffs’ pending motion.

Based on the foregoing, the undersigned will vacate the previous Order (Document No. 5). Defendants shall file a timely answer or otherwise respond to Plaintiff’s Complaint following proper service, or in the alternative seek additional time to do so.

IT IS, THEREFORE, ORDERED that “Plaintiff’s Verified Opposition And Motion To Vacate Order Of April 23, 2012 Granting Motion For Extension Of Time To Respond To Complaint” (Document No. 6) is **GRANTED**, as described herein.

Signed: May 22, 2012



David C. Keesler
United States Magistrate Judge

